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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,022	06/19/2003	Brent C. Gerberding	02-458US01	5691
54953 7590 11/13/2009 BROOKS, CAMERON & HUEBSCH, PLLC 1221 NICOLLET AVENUE SUITE 500 MINNEAPOLIS, MN 55403				
EXAMINER				
GANESAN, SUBA				
ART UNIT		PAPER NUMBER		
3774				
MAIL DATE		DELIVERY MODE		
11/13/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/600,022

Applicant(s)

GERBERDING ET AL.

Examiner

SUBA GANESAN

Art Unit

3774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 21-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 32-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/22/2009 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-20 and 32-36 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. Claims **1-13, 16-20, 32-36** are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwin (2002/0095205) in view of Wolff (5,104,404) and Ventura (2004/0044399).

4. Edwin et al teaches the combination of a stent comprising a tubular framework having an outer surface and an inner surface and a plurality of interconnected struts, an outer covering of PTFE and an inner covering of PTFE, the outer covering extending along at least a portion of the outer surface of the expandable framework, the inner covering extending along at least a portion of the inner surface of the expandable framework, at least a portion of the inner and outer coverings being contiguous, the combination further comprising at least one radiopaque marker between the coverings.

See illustrations of figures 3-5 and corresponding supporting portions of the specification.

5. Additionally, Edwin teaches the use of several radiopaque marker types (para. 23) and that "any number of radiopaque rings or other locating markers can be included in any arrangement that aids the physician in the deployment process as well as post-operative procedures" (para 24).
6. However, Edwin does not specifically teach a stent structure with axially aligned oppositely pointing apices connected with a connector strut.
7. Wolff discloses a stent structure with radiopaque connector struts 14 that connect adjacent oppositely pointing apices (fig. 1-3 and related descriptions). It would have been obvious to one of ordinary skill in the art to utilize the radiopaque markers and PTFE coverings of Edwin with the stent as taught by Wolff, since such a modification would have been a combination of prior art elements. This modification would have occurred using known methods, and would have yielded predictable results.
8. Edwin teaches radiopaque marker placement in any arrangement to aid in the deployment process. However, Edwin does not specifically teach the radiopaque marker being located on a connector strut. Ventura teaches radiopaque marker placement specifically on a connector strut (fig. 4B-C, for example). Therefore it would have been obvious to one of ordinary skill in the art to modify the combination of Edwin and Wolff with radiopaque markers specifically placed on the connector strut as taught by Ventura for the purpose of adequately marking the surface of the stent for aiding the physician in the deployment process and in post-operative procedures.

9. With respect to claims 5-6 and 8, crimping is considered an obvious means of attaching a radiopaque marker, such as those suggested by Edwin para. 23, to a stent body. This attachment means would have been obvious to one of ordinary skill in the art as a suitable means of adding radiopaque markers to a stent body.

10. Regarding claims 2,3,4, 7, 10-13,20,32-36, see figures 3-5 and specification, paragraphs [0021-0027] of Edwin, et al. Claims 16-19 see para 7 and 34 of Ventura.

11. Claims **14** and **15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwin et al (20020095205) in view of Wolff (5,104,404) and Ventura (2004/0044399) as applied above, further in view of Nolting et al (6488701).

12. The use of stents for correcting cerebral vasculature is taught by Nolting, et al. If not inherent in Edwin (The stent of Edwin is capable of being placed into a cranial vessel of any animal including rabbits, primates and elephants) to employ a stent to correct aneurysm would have been obvious to one with ordinary skill in the art based on medical considerations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUBA GANESAN whose telephone number is (571)272-3243. The examiner can normally be reached on M-F 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Isabella can be reached on 571-272-4749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William H. Matthews/
Primary Examiner, Art Unit 3774

/S. G./
Examiner, Art Unit 3774